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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
2164	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/941,681	MAYAUD, CHRISTIAN	
	Examiner	Art Unit	
	Sam Rimell	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *70-91* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *70,73-76,86-88 and 90* is/are rejected.

7)☒ Claim(s) *71,72,77-85,89 and 91* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 81 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 81: In line 2, the phrase "said drug formulary information" lacks antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 70, 73-76, 86-88 and 90 are rejected under 35 U.S.C. 102(e) as being anticipated by Whalen et al.

Claim 70: Whalen et al. discloses a system for creating n electronic prescription (FIGS. 19-21) The prescription includes a patient identifier (FIG. 19, line 3) a prescribed drug (FIG. 19, line 2) and a drug quantifier (FIG. 19, line 4 and FIG. 21, choice #3).

FIGS. 19-21 are the prescription creation screens.

The patient identifier capture device is the field in line 3 of FIG. 19 that receives the patient name.

The drug data capture device is the field in line 2 of FIG. 19 that receives the drug type information.

The drug quantifier capture device is the field in line 4 which records the number of refills allowed. Item #3 in FIG. 21 also appears to be an option in which drug dosages can be recorded in a data field.

The library of prescribable drug data are the complete set of prescriptions for all patients which can be reviewed and which list drugs which have been prescribed.

The prescription output screens are any of the graphical interfaces of FIGS. 19-21.

Any of the displayed data can be printed (FIG. 2, item #4).

The patient prescription includes patient condition information (hospitalization list, right most portion of FIG. 21). Additionally, the patient condition is recorded (FIG. 40) in the patient record which also includes the prescription.

Claim 73: FIGS. 5 and 5A illustrate that the system further include a patient history record (FIG. 5) which lists prior prescription records (item #7) which inherently describe prescribed drugs. The record also lists treatment objectives (FIG. 5, items #1, #2, #3 and #6).

Claim 74: FIG. 40 is a patient condition listing which are conditions that can be stored in the patient record.

Claim 75: FIG. 1 illustrates the computer which is the source oriented data retrieval subsystem. This subsystem may form part of an overall data network, including remote databases accessible by the subsystem (col. 3, lines 21-23).

Claim 76: Drug interaction information creates physical symptoms, and FIG. 40 is a listing of physical symptoms. The features of allergic interactions or formulary changes are optionally recited.

Claim 86: FIG. 40 is a condition list providing at least five conditions. The prescription screens FIGS. 15-17 read as a drug list of which there may be at least five drugs recorded, within the scope of the disclosure.

Claim 87: The prescription screens FIGS. 15-17 contain drug information. FIG. 40 lists condition information. The disclosed system provides no limits on the number of drugs recorded within the prescriptions.

Claim 88: The system includes output means (printer selection, item #4) local storage (storage within the local computer in FIG. 1) and storage within remote databases (col. 3, lines 21-23).

Claim 90: FIG. 2, item #4 allows the user to print data from any of the screens, including the prescription information screens (FIGS. 19-21) which include dosage information, (FIG. 19, line 4 and FIG. 21, item #3).

Claims 71-72, 77-85, 89 and 91 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Remarks

Applicant's submission of affidavit evidence under 37 CFR 1.131 have provided sufficient evidence to overcome the application of the Schrier et al. reference. The application of Whalen et al. reference is newly applied herein and this action is made non-final.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.

Sam Rimell
Primary Examiner
Art Unit 2164